

## IN THE MICHIGAN COURT OF APPEALS

### ORDER

Re: **People of MI v Phillip Lavell**

Docket No. **275745**

L.C. No. **01-002343-01**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction as to issue III because it constitutes an appeal of a denial of a successive motion for relief from judgment that cannot be appealed because of MCR 6.502(G)(1). This appeal shows that in 2005 defendant filed a motion for relief from judgment that was denied January 24, 2006. In a motion filed in April of 2006, defendant filed a motion challenging his judgment of sentence in terms of being ordered to pay restitution. Though not titled as a motion for relief from judgment, this motion was a motion for relief from judgment under MCR 6.501. Therefore, the order of April 27, 2006, which is the only order regarding restitution, constitutes an order denying a successive motion for relief from judgment. The delayed application for leave to appeal does remain pending as to issues I and II.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB -7 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk